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97TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
No. 97-792

COMPLETED
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PRETRIAL SERVICES ACT OF 1982

SEPTEMBER 8, 1982.—Ordered to be printed

Mr. HUGHES, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany S. 923]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 923) to amend chapter 207 of title 18, United States Code, relating to pretrial services, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Pretrial Services Act of 1982".

SEC. 2. Section 3152 of title 18, United States Code, is amended to read as follows:

"§ 3152. Establishment of pretrial services

"(a) On and after the date of the enactment of the Pretrial Services Act of 1982, the Director of the Administrative Office of the United States Courts (hereinafter in this chapter referred to as the 'Director') shall, under the supervision and direction of the Judicial Conference of the United States, provide directly, or by contract or otherwise (to such extent and in such amounts as are provided in appropriation Acts), for the establishment of pretrial services in each judicial district (other than the District of Columbia). Pretrial services established under this section shall be supervised by a chief probation officer appointed under section 3654 of this title or by a chief pretrial services officer selected under subsection (c) of this section.

"(b) Beginning eighteen months after the date of the enactment of the Pretrial Services Act of 1982, if an appropriate United States

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district court and the circuit judicial council jointly recommend the establishment under this subsection of pretrial services in a particular district, pretrial services shall be established under the general authority of the Administrative Office of the United States Courts.

"(c) The pretrial services established under subsection (b) of this section shall be supervised by a chief pretrial services officer selected by a panel consisting of the chief judge of the circuit, the chief judge of the district, and a magistrate of the district or their designees. The chief pretrial services officer appointed under this subsection shall be an individual other than one serving under authority of section 3654 of this title.".

SEC. 3. Section 3153 of title 18, United States Code, is amended to read as follows:

"§ 3153. Organization and administration of pretrial services

"(a)(1) With the approval of the district court, the chief pretrial services officer in districts in which pretrial services are established under section 3152(b) of this title shall appoint such other personnel as may be required. The position requirements and rate of compensation of the chief pretrial services officer and such other personnel shall be established by the Director with the approval of the Judicial Conference of the United States, except that no such rate of compensation shall exceed the rate of basic pay in effect and then payable for grade GS-16 of the General Schedule under section 5332 of title 5, United States Code.

"(2) The chief pretrial services officer in districts in which pretrial services are established under section 3152(b) of this title is authorized, subject to the general policy established by the Director and the approval of the district court, to procure temporary and intermittent services to the extent authorized by section 3109 of title 5, United States Code. The staff, other than clerical staff, may be drawn from law school students, graduate students, or such other available personnel.

"(b) The chief probation officer in all districts in which pretrial services are established under section 3152(a) of this title shall designate personnel appointed under chapter 231 of this title to perform pretrial services under this chapter.

"(c)(1) Except as provided in paragraph (2) of this subsection, information obtained in the course of performing pretrial services functions in relation to a particular accused shall be used only for the purposes of a bail determination and shall otherwise be confidential. Each pretrial services report shall be made available to the attorney for the accused and the attorney for the Government.

"(2) The Director shall issue regulations establishing the policy for release of information made confidential by paragraph (1) of this subsection. Such regulations shall provide exceptions to the confidentiality requirements under paragraph (1) of this subsection to allow access to such information—

"(A) by qualified persons for purposes of research related to the administration of criminal justice;

"(B) by persons under contract under section 3154(4) of this title;

"(C) by probation officers for the purpose of compiling presentence reports;

"(D) insofar as such information is a pretrial diversion report, to the attorney for the accused and the attorney for the Government; and

"(E) in certain limited cases, to law enforcement agencies for law enforcement purposes.

"(3) Information made confidential under paragraph (1) of this subsection is not admissible on the issue of guilt in a criminal judicial proceeding unless such proceeding is a prosecution for a crime committed in the course of obtaining pretrial release or a prosecution for failure to appear for the criminal judicial proceeding with respect to which pretrial services were provided.".

SEC. 4. Section 3154 of title 18, United States Code, is amended to read as follows:

"§ 3154. Functions and powers relating to pretrial services

"Pretrial services functions shall include the following:

"(1) Collect, verify, and report to the judicial officer, prior to the pretrial release hearing, information pertaining to the pretrial release of each individual charged with an offense, including information relating to any danger that the release of such person may pose to any other person or the community, and recommend appropriate release conditions for such individual.

"(2) Review and modify the reports and recommendations specified in paragraph (1) of this section for persons seeking release pursuant to section 3146(e) or section 3147 of this chapter.

"(3) Supervise persons released into its custody under this chapter.

"(4) Operate or contract for the operation of appropriate facilities for the custody or care of persons released under this chapter including residential halfway houses, addict and alcoholic treatment centers, and counseling services.

"(5) Inform the court and the United States attorney of all apparent violations of pretrial release conditions, arrests of persons released to the custody of providers of pretrial services or under the supervision of providers of pretrial services, and any danger that any such person may come to pose to any other person or the community, and recommend appropriate modifications of release conditions.

"(6) Serve as coordinator for other local agencies which serve or are eligible to serve as custodians under this chapter and advise the court as to the eligibility, availability, and capacity of such agencies.

"(7) Assist persons released under this chapter in securing any necessary employment, medical, legal, or social services.

"(8) Prepare, in cooperation with the United States marshal and the United States attorney such pretrial detention reports as are required by the provisions of the Federal Rules of Criminal Procedure relating to the supervision of detention pending trial.

"(9) Develop and implement a system to monitor and evaluate bail activities, provide information to judicial officers on the results of bail decisions, and prepare periodic reports to assist in the improvement of the bail process.

"(10) To the extent provided for in an agreement between a chief pretrial services officer in districts in which pretrial services are established under section 3152(b) of this title, or the chief probation officer in all other districts, and the United States attorney, collect, verify, and prepare reports for the United States attorney's office of information pertaining to the pretrial diversion of any individual who is or may be charged with an offense, and perform such other duties as may be required under any such agreement.

"(11) Make contracts, to such extent and in such amounts as are provided in appropriation Acts, for the carrying out of any pretrial services functions.

"(12) Perform such other functions as specified under this chapter.".

SEC. 5. Section 3155 of title 18, United States Code, is amended to read as follows:

"§ 3155. Annual reports

"Each chief pretrial services officer in districts in which pretrial services are established under section 3152(b) of this title, and each chief probation officer in all other districts, shall prepare an annual report to the chief judge of the district court and the Director concerning the administration and operation of pretrial services. The Director shall be required to include in the Director's annual report to the Judicial Conference under section 604 of title 28 a report on the administration and operation of the pretrial services for the previous year.".

SEC. 6. The table of sections for chapter 207 of title 18, United States Code, is amended by striking out the item relating to section 3152 and all that follows through the item relating to section 3155 and inserting in lieu thereof the following:

"3152. Establishment of pretrial services.
"3153. Organization and administration of pretrial services.
"3154. Functions and powers relating to pretrial services.
"3155. Annual reports.".

SEC. 7. Section 604(a) of title 28, United States Code, is amended by—

(1) striking out "agencies" in paragraph (9);

(2) striking out "for pretrial services agencies" and inserting in lieu thereof "providing pretrial services" in paragraph (10);

(3) striking out "pretrial service agencies" in paragraph (11) and inserting "offices providing pretrial services" in lieu thereof; and

(4) striking out "pretrial services agencies" in paragraph (12) and inserting "offices providing pretrial services" in lieu thereof.

SEC. 8. During the period beginning on the date of enactment of this Act and ending eighteen months after the date of the enactment of this Act, the pretrial services agencies established under section 3152 of title 18 of the United States Code in effect before the date of enactment of this Act may continue to operate, employ staff, provide pretrial services, and perform such functions and powers as are authorized under chapter 207 of title 18 of the United States Code.

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SEC. 9. (a) There are authorized to be appropriated, for the fiscal year ending September 30, 1984, and each succeeding fiscal year thereafter, such sums as may be necessary to carry out the functions and powers of pretrial services established under section 3152(b) of title 18, United States Code.

(b) There are authorized to be appropriated for the fiscal year ending September 30, 1983, and the fiscal year ending September 30, 1984, such sums as may be necessary to carry out the functions and powers of the pretrial services agencies established under section 3152 of title 18 of the United States Code in effect before the date of enactment of this Act.

And the House agree to the same.

PETER W. RODINO,
BILL HUGHES,
JOHN CONYERS,
ROBERT W. KASTENMEIER,
DAN GLICKMAN,
ROBERT MCCLORY,
HAROLD S. SAWYER,
HAMILTON FISH, Jr.,
Managers on the Part of the House.

STROM THURMOND,
CHARLES MCC. MATHIAS,
PAUL LAXALT,
JOSEPH R. BIDEN,
PATRICK J. LEAHY,
Managers on the Part of the Senate.

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JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 923) to amend chapter 207 of title 18, United States Code, relating to pretrial services, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

The Senate bill provides for the establishment of pretrial services in each judicial district. The House amendment provides for the establishment of pretrial services in those districts with respect to which the district court and the circuit council have so recommended.

The conference substitute adopts the Senate position.

The Senate bill provides that, for an 18-month period following enactment of the bill, any pretrial services beyond the existing demonstration districts—which are specifically authorized to continue their operation during the 18-month period—are to be provided under the supervision of the chief probation officers, utilizing existing resources, with no authority for additional appropriations. After this 18-month period, pretrial services may also be provided under the supervision of chief pretrial services officers, who must be individuals other than those serving as probation officers under the authority of section 3654 of title 18. When the district court and circuit counsel recommended the establishment of pretrial services in these special districts, authority is provided for additional appropriations to support pretrial services. The Senate bill also specifically authorizes appropriations necessary to continue the demonstration projects in effect prior to the date of enactment, for a period ending 18 months after the date of enactment.

The House amendment provides that, based on the recommendation of the district court and the circuit council, pretrial services may be provided under the supervision of either chief probation officers or chief pretrial services officers. There is no delay period in the availability of either type of pretrial services supervision, and the authority for appropriations extends to both types of management.

The conference substitute adopts the Senate position. This delay period is, in the opinion of the conference managers, sufficient for the district courts, circuit councils, and the Administrative Office of the U.S. Courts to evaluate the needs for pretrial services and the resources available in each district. This evaluation process, as described in more detail at page 10 of Senate Report 97–77, should begin immediately upon enactment of S. 923, and should permit the United States courts to identify those districts which are capable of providing pretrial services within existing resources and those which will need additional resources and will therefore be required to utilize the special districts provision of this statute.

The Senate bill provides that chief pretrial services officers and chief probation officers shall appoint such other personnel as required, and that the position requirements and rate of compensation of the chief pretrial services officer, the chief probation officer, and other personnel are to be established by the Director of the Administrative Office. The House amendment provides for the chief pretrial services officer to appoint additional personnel, and for position requirements and compensation of these persons to be fixed by the Director of the Administrative Office.

The conference substitute provides for the appointment of additional personnel by the chief pretrial services officer, and authorizes the chief probation officer to designate existing probation personnel to perform pretrial services functions. Authority for the chief probation officer to "designate", rather than "appoint", is necessary to remain consistent with the determination of the Managers that additional personnel will be appointed only in special districts under the supervision of chief pretrial services officers. Similarly, since the position requirements and compensation of probation officers and other probation support personnel are provided for in chapter 231 of title 18, reference to them here is deleted.

Both the Senate and House bills provide for the confidentiality of information collected in the course of providing pretrial services functions. The conference substitute adopts the position of both bills, with language taken from both bills. The conference substitute clarifies that the protected information is that "obtained in the course of performing pretrial services functions. . . ." This carries out the purpose of protecting the relationship between the pretrial services officer and the particular defendant. Defendants may be reluctant to cooperate with pretrial services officers unless assured of the confidentiality of the information they reveal to the officers. The courts, in turn, would receive only incomplete information. The conference substitute also makes clear that the information is protected unless it is to be revealed for the purposes of a bail hearing. Hearings to determine whether a defendant's bail should be revoked are, or course, considered bail hearings.

The conference substitute requires the Director to issue regulations establishing the confidentiality of the information referred to above, and not just information contained in pretrial services files. Otherwise, as suggested above, the purpose of furthering the relationship between the pretrial services officer and the defendant, and thus of gathering the most complete information for the court, would be threatened.

Finally, the conference substitute provides that such information is not admissible on the issue of guilt in a criminal judicial proceeding unless the proceeding is for a crime committed in the course of obtaining pretrial release, or for the defendant's failure to appear on the case for which pretrial services were provided. In this case, the conference substitute adopts a combination of exceptions set forth in the Senate and the House bills. As described above, the limitation on admissibility is necessary to further the objective of ensuring that the court receives the most complete information possible. However, the exceptions are provided to ensure that defendants cannot attempt to take advantage of the pretrial services process and then shield themselves behind the guarantee of confidentiality.

Both the Senate and the House bills set forth the functions of providers of pretrial services, including collecting, verifying, and reporting to the court information about the defendant's pretrial release. The House bill also requires providers of pretrial services to inform the court if the release of the defendant may pose a danger to any other person or the community.

The conference substitute adopts the House position.

Both the Senate and the House bills require the providers of pretrial services to inform the court and the United States attorney of all apparent violations of conditions of release, and arrests of persons under their supervision or released to their custody. The House bill also requires providers of pretrial services to inform the court and United States attorney that the person may come to pose a danger to any other person or the community.

The conference substitute adopts the House position.

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